

## Why adjudicate?

Water is a valuable resource. Some say it is the gold of the 21st century. The determination of Montana's water rights helps protect our most fundamental industries such as agriculture, inventories water use so water resource availability is known, and protects Montana's water rights from downstream states.

Enforcement of water rights in Montana is one way the adjudication program helps protect water users. The most significant enforcement action to date is in the Musselshell River, where 200 miles of river are under enforcement. Since 2001, the number of requests before the district courts calling for enforcement of water rights on streams has been increasing. District Courts appoint about fifty water commissioners seasonally in the state. Until the adjudication of a stream is completed by the Water Court and until all the objections are settled, water commissioners must rely on historical decrees, which are limited, to enforce water use. Water rights on streams without decrees cannot be enforced.

Adjudication of Montana's water rights provides knowledge of available water resources, important to the state's growth and economic development. Montana water users are also better protected and able to defend historical usage against the increasing demands for water from downstream states.



*Blackfoot River*

## Need more information?

Visit these websites for additional information, resources and links to other related sites:

DNRC  
<http://dnrc.mt.gov>

MT Water Court  
<http://courts.mt.gov/water>

EQC  
[http://leg.mt.gov/css/lepo/2007\\_2008](http://leg.mt.gov/css/lepo/2007_2008)

WPIC  
[http://leg.mt.gov/css/lepo/2007\\_2008/water\\_policy](http://leg.mt.gov/css/lepo/2007_2008/water_policy)



*Yellowstone River*

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[http://dnrc.mt.gov/wrd/water\\_rts](http://dnrc.mt.gov/wrd/water_rts)

# Water Right Adjudication in Montana



MT DNRC

*Tongue River Dam*

Department of  
Natural Resources and Conservation



The Water Resource Division promotes and coordinates the wise use and conservation of Montana's water resources for current and future generations.

February 2008





*Water Commissioner Tour of  
Willow Creek, Madison County*

## What is adjudication?

Adjudication is a process for resolving problems or issues. For existing water right claims the process involves the examination of claims, the issuance of decrees, and the resolution of claim issues.

## What is DNRC's role in the adjudication process?

DNRC provides technical assistance to the Montana Water Court (the water right decision maker). Examination of all claims for consistency and clarity is done by comparing claimed information to available historical records.

DNRC prepares a Summary Report of all water right claims once examination of a basin is complete. This Summary Report is sent to the Water Court for review and for issuance of a decree.

DNRC also provides post-decree assistance to the Water Court during the resolution of issues.

## Who administers water rights in Montana?

### DNRC

- administers water uses after June 30, 1973
- trains water commissioners
- provides technical information and assistance to the Water Court on historical water rights claims (pre-July 1st, 1973)
- maintains a central water rights record system

### MONTANA WATER COURT

- adjudicates pre-July 1st, 1973 water rights
- decides any legal issues referred from the District Court on pre-July 1st, 1973 water rights
- assists District Courts with enforcement

### DISTRICT COURTS

- can issue injunctive relief while it certifies water rights issues to the Water Court
- appoints Water Commissioners for enforcement
- manages enforcement of water rights

### RWRCC (Reserved Water Rights Compact Commission)

- negotiates compacts for the equitable division and apportionment of waters between state-based water rights and reserved water rights (tribal and federal)

### ATTORNEY GENERAL

- The Water Court may join the Attorney General to intervene, on behalf of the state, in the adjudication of water right claims that are being decreed by the Water Court

### LEGISLATURE

- provides policy direction and laws for the administration of waters
- currently conducting an interim (2007-2008) study on water-related issues via the Water Policy Interim Committee (WPIC)
- EQC (Environmental Quality Council) contributes policy oversight to the administration of state water rights by advising and updating the legislature and overseeing institutions dealing with water and communicates with the public on matters of water policy

## Adjudication program history

1972 - Constitution provides for the protection of existing water rights (those established prior to July 1st, 1973)

1972 - Constitution also provides for a centralized record system to be established to identify all water rights and quantify the historic rights

1973 - Water Use Act

1974 - The Powder River Adjudication is ordered

1979 - Statewide adjudication ordered (SB76)

1982 - Claim filing period ends - 219,000 claims received

1985 - First 20 basins decreed

1985 - Claim verification procedures challenged

1987 - Supreme Court rules for examination are adopted

1993 - Late claim filing date set: July 1st, 1996

1995 - Legislature creates adjudication advisory committee

1995 - Legislature prohibits DNRC from acting as an institutional objector

2004 - EQC studies adjudication program

2005 - HB22 passes, establishing benchmarks and a timeline to finish the adjudication process

2005 - HB 782 passes, requiring all issue remarks on claims be resolved

2006 - Amended examination rules adopted by MT Supreme court

2007 - Over 24,000 claims examined, exceeding the December 2008 benchmark of 19,000 claims; 59 of 89 basins have initial decrees.